



OPENING UP THE CALIFORNIA COAST

VIA E-MAIL AND U.S. MAIL

Sam Schuchat
Executive Officer
State Coastal Conservancy
1330 Broadway / 13th Floor
Oakland, California 94612

July 15, 2009

Re: AFA's Compliance with All Management Responsibilities and Obligations

Dear Sam,

The discussion at the Coastal Commission's July 8th hearing on Cease and Desist Order No. CCC-09-CD-01 and Notice of Violation No. CCC-09-NOV-01 (Ackerberg, Malibu, Los Angeles Co.) unfortunately included in the written and oral record a significant amount of incorrect information regarding Access for All (AFA). This misinformation springs from a misunderstanding of the terms and conditions of the settlement agreement resolving the Coastal Act enforcement lawsuit filed by AFA against Mrs. Lisette Ackerberg (Los Angeles Superior Court No. BC405058). I am providing this letter to you to clarify these misperceptions. AFA wants to make very clear that it is ready, willing, and able to "carry out its responsibilities" under the July, 2003 "Management Plan" as required under the December, 2003 "Certificate of Acceptance," and remains in the process of doing so.

First, I want to assure you that AFA has violated none of the terms and conditions of either the Certificate of Acceptance or the Management Plan. The terms of the Management Plan are clear:

Phase I required AFA to "hire a surveyor to locate the boundaries of the easement and identify encroachments within the easement area." This was completed in October 2005. ***Phase I*** also required AFA to submit a list of the encroachments identified by the surveyor to Commission staff "for review and action." This was completed in December 2005.

Phase II requires AFA to open the easement "once the issue of encroachments has been resolved" and to "work with the property owner [Mrs. Lisette Ackerberg] to design" the improvements necessary to operate the easement in consultation with Commission and Coastal Conservancy staffs. The issue of "encroachments" was discussed and decided by the Commission on July 8th, and at the resolution of the Commission's enforcement actions titled above, AFA is ready, willing, and able to open the accessway. To that end, paragraph 5.1 of AFA's settlement agreement includes a comprehensive set of "design" improvements acceptable to Mrs. Ackerberg and AFA, completing this requirement of



the Management Plan as well. And at a time when public funding for public access is in short supply, it is important to note that Mrs. Ackerberg agrees she will also fully fund the considerable additional improvements identified in the settlement agreement.

Last December the Conservancy authorized a grant of \$75,000 to AFA to prepare and finalize site designs and undertake other analysis needed to apply for the necessary permits required to develop three accessways, one of which is the Ackerberg easement. Unfortunately, as you know, the bond funds to accomplish this are not yet available and remain up in the air pending resolution of the State budget crisis. Nonetheless, AFA remains prepared to work with Joan Cardellino now and when the funds are disbursed to complete the site designs for this easement and to obtain the required permits to develop it.

Second, after more than 8 years of collaboration in managing 35 vertical and lateral easements in collaboration with your and the Commission staffs, there appears to be a lack of faith shown in AFA's singular mission to enhance public access for the people of California. If so, this would cut against the grain of the intended role public interest groups are authorized to play under the public access provisions of the Coastal Act (Public Resources Code § 30214(c)), and the role we believe that AFA has at all times faithfully fulfilled. Because there is confusion about AFA's position in this matter, let me say on the record that our commitment to opening the Ackerberg easement remains strong and unwavering. AFA has relinquished none of its rights, and surely has not attempted to relinquish any of those owned by the State. The Coastal Commission retains the last word on the implementation of the Ackerberg easement. What we have done is to take an innovative approach to opening up the Ackerberg easement (unopened since 1985) and the County of Los Angeles easement five properties up-coast (unopened since 1973). Under our settlement agreement, we have initiated a process that will provide that either or both of these easements will be opened and operated for the public's use and enjoyment. And we believe that under the terms and conditions of our settlement agreement that new public access to Carbon Beach can be achieved expeditiously, and opened and managed with private funds guaranteed by the settlement. Suffice it to state, this eliminates the need for funding from the Conservancy for this purpose, and permits the Conservancy to spread its available funds to other access and coastal-related uses.

Finally, AFA and the Conservancy have enjoyed a successful, professional relationship for such a long time now. Even so, we must of course defend our right to open and operate all of the vertical and lateral easements which we now hold. And, we will be seeking the right to own and operate future public access easements as well, continuing to work with both the Conservancy and Commission staff. As an organization with a demonstrated track record of success in opening and managing public accessways, AFA is always prepared to meet any challenge to its rights in appropriate administrative proceedings, in the courts, and in the important court of public opinion.

I hope, Sam, that this clarifies AFA's role with respect to the Ackerberg easement. As always, I remain available at your convenience to discuss this matter further.

Very truly yours,
Steve Hoyer, Executive Director

A handwritten signature in blue ink, appearing to read "Steve Hoyer", is written over a light blue horizontal line.